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DE RUEHKV #0656/01 0811325
ZNY CCCCC ZZH
P 221325Z MAR 07
FM AMEMBASSY KYIV
TO RUEHMO/AMEMBASSY MOSCOW PRIORITY 0100
RUEHG/USMISSION GENEVA PRIORITY 0055
RUEHC/SECSTATE WASHDC PRIORITY 1622

C O N F I D E N T I A L KYIV 000656

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MOSCOW FOR DHS/CIS, STATE FOR ROLF OLSON AT PRM

E.O. 12958: DECL: 03/24/2016

TAGS: PGOV PHUM PREL UP UNHCR

SUBJECT: UKRAINE ACTION REQUEST: UNHCR CONCERNED ABOUT DROP
IN U.S. ASYLUM REQUEST ACCEPTANCES

REF: 06 KYIV 4680

Classified By: POL Counselor Kent Logsdon, reasons 1.4 (b, d).

¶1. (SBU) Note: This is an action request for Moscow DHS/CIS, Mission Geneva and PRM, retransmitting the text of reftel, slightly modified. Post requests a response to the UNHCR-Kyiv claim that U.S. refusal rates of UNHCR-Kyiv referrals in 2006 jumped by 20 percent; see para 9.

¶2. (C) Summary. Representatives from UNHCR-Kyiv told us in December 2006 that the situation for asylum seekers in Ukraine was still precarious and that proposed legislation, which UNHCR helped to draft, would address the shortcomings of the current system - including gaps in the legal structure and nearly continuous reorganization of the State Committee for Nationalities and Refugees. They added that the readmission agreement between Russia and Ukraine, signed December 22, 2006 could make asylum seekers from CIS countries - especially Chechens - more vulnerable. UNHCR also raised concerns about the approximately 20 percent increase in U.S.-refused resettlement applications referred by UNHCR-Kyiv in 2006. They also provided information on the 11 Uzbeks refouled in February, reporting that several had received lengthy prison sentences or were subject to restrictive measures although there was no way to confirm this information provided by the Uzbek Government. End Summary

UNHCR: Asylum Seekers Face Hardship and Uncertainty

¶3. (SBU) The office of the United Nations High Commissioner for Refugees (UNHCR) in Ukraine, Belarus, and Moldova - including its Regional Representative Simone Wolken - requested a meeting with us to raise concerns about the precarious situation for asylum seekers in Ukraine. The four officials painted a bleak picture in which asylum seekers face long delays for their cases to be heard (2-3 years), murky legal status while waiting for their hearings, and few prospects of receiving refugee status from Ukraine (a four percent acceptance rate 2002-2005).

¶4. (SBU) The UNHCR representatives explained that the major flaws in the current Ukrainian system is how the Government of Ukraine registers asylum seekers. The current system lacks an effective mechanism to confer on them the temporary right of residence in Ukraine, and does not give them the legal status necessary to work legally. Therefore, these asylum seekers, often without legal documents and working illegally, are subjected them to possible arrest and harassment by local law enforcement authorities. UNHCR added that access to temporary accommodations, health care, and subsistence income is very limited, causing the asylum

seekers significant hardship.

¶15. (C) The UNHCR representatives acknowledged that Ukraine faces a particularly difficult situation as a transit country for refugees seeking asylum in the EU (note: as well as economic migrants). They added that asylum seekers from CIS countries, most notably Uzbeks and Chechens from Russia, face further danger due to what UNHCR believes is unwritten but close cooperation between CIS country security organizations - especially with Russia in regards to Chechens. Asylum seekers from CIS countries are especially fearful of even applying for status in Ukraine and do so only if apprehended on Ukraine's western borders. At that point, their only other option is usually immediate deportation to their country of origin.

¶16. (C) The UNHCR stated that the readmission agreement between Russia and Ukraine signed during President Putin's visit to Kyiv in December 2006, in UNHCR's view, could provide a mechanism to facilitate deportation of CIS asylum seekers - most notably Chechens - to Russia or other CIS countries. However, conclusion of the Ukrainian-Russian agreement was critical to implementation of the EU-Ukrainian readmission agreement, a key step forward in Ukraine-EU relations. Without the readmission agreement with Russia, Ukraine would have to manage the holding of potentially tens of thousands of returnees from the EU who had transited Ukraine, without recourse to further deportation to Russia. In a November 2006 meeting with Interpol Secretary General Ronald Noble, President Yushchenko acknowledged that annually Ukraine was detaining 9,000 to 14,000 irregular migrants, but only had two facilities to accommodate the migrants while status was being determined. Therefore, even before signing of the readmission agreement with EU, Ukraine's inability to manage its case load of migrants had resulted in harsh

criticism from the Council of Europe for not meeting European standards.

Request for USG to Support New Law on Refugees

¶17. (SBU) Frequent changes in the organization of the GOU asylum authorities (eight times in the past nine years) and shortcomings in the 2001 Law on Refugees make it hard to assist asylum seekers, UNHCR noted. With the November 2006 formation of the State Committee for Nationalities and Religion, replacing two previous committees, it remains unclear which Ukrainian government body will have authority over asylum matters let alone migration policy writ large. (Note: Implementation of Ukraine's migration policy, to the degree it exists, is handled by the State Border Guard Service and the Ministry of Interior (MOI), the latter assigned in September 2005 to take over responsibility from the Border Guards for Ukraine's migration detention facilities. Beyond the problem of insufficient space to accommodate the large number of irregular migrants detained each year, Mikhail Andrienko, Head of the MOI's Trafficking in Persons and Migration Department, said there is a lack of proper legislation empowering his Department to operate in this field.).

¶18. The 2001 Law on Refugees and subsequent amendments to it do not provide adequate protections to asylum seekers and falls short of international standards, in UNHCR's opinion. However, they hope that draft legislation that they helped write to address shortcomings in the current legislation would become law in 2008 or 2009. The UNHCR asked for U.S. support in encouraging the GOU to pass the proposed legislation without major changes.

Drop in USG Acceptance of Resettlement Cases?

¶19. (C) Wolken and her colleagues expressed alarm at the decrease in the number of resettlement cases from Ukraine accepted by the USG in 2006 as compared to previous years. According to their figures, in 2003-2005, the U.S. accepted

approximately 65-70 percent of resettlement requests forwarded by UNHCR-Kyiv, while in 2006 only 40 percent of such cases were accepted. They were puzzled by the sharp drop this year because they saw no qualitative or quantitative difference between the 2006 cases and those from previous years. They were especially at a loss to understand the refusal of cases involving Somalis, since they knew of Somalis having been resettled from other third-countries to the U.S. in 2006. They asked us to relate their concerns to the DHS/CIS representatives in Moscow and asked to meet with them in Kyiv during the next round of resettlement case adjudications. (Note: We suggested that UNHCR raise this in both Geneva and Washington for a response. End Note.)

Fate of the 11 Refouled Uzbeks

¶10. (C) In response to our question regarding the fate of the 11 Uzbeks refouled in February 2006, UNHCR-Kyiv provided us with a copy of a November 9, 2006, letter from the Mission of Uzbekistan in Brussels to the Permanent Representations of European Union Member States to the EU indicating that all 11 had been charged with several criminal offenses relating to the May 2005 Andijon uprising. Two of the refouled Uzbeks had received lengthy prison terms; two received three-year correctional work custody, and one case was still pending. There was no additional information about the remaining six. Although there is not a UNHCR office in Tashkent, UNHCR-Kyiv told us that, according to their sources, those not sentenced are subject to restrictive measures and police surveillance.

¶11. (U) Visit Embassy Kyiv's classified website:
www.state.sgov.gov/p/eur/kiev.

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